**HIGH COURT OF UTTARANCHAL AT NAINITAL**

**WRIT PETITION NO. 1167 (S/B) OF 2002**

Jaipal Singh, S/o Mr. Mohan Singh,
Jaspur, District Udham Singh Nagar.....Petitioner

Versus

1. State of Uttaranchal through Secretary, Education, Dehradun.
2. Assistant Director, Education, Nainital.
3. Zila Basic Shiksha Adhikari, District Udham Singh Nagar.
4. Principal, Zila Shiksha and Parshikshar Sansthan, Bhimtal, Nainital. ....Respondents

Mr. Khalil Ahmed, Advocate, counsel for the petitioner
Standing Counsel for the respondents

**Dated 10.7.2006**

**Hon'ble Rajesh Tandon, J.**

Heard Sri Khalil Ahmad, Advocate counsel for the petitioner Standing Counsel for the respondent No. 1,2, &3 and Sri Sudhir Singh, Advocate, counsel for the for the N.C.T.E.

By the present writ petition, the petitioner has prayed for the following reliefs :-

I. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to appoint the petitioner as an assistant teacher in Prathamik Vidhyalaya.

II. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to consider the case of the petitioner for the appointment of the

the petitioner as an assistant teacher in Prathamik Vidhyalaya, and for the appointment of the petitioner in special B.T.C. training.

The degree obtained by the petitioner is not recognized by the National Counsel for the Teacher's Education. A Counter affidavit has been filed by the respondents stating therein that the petitioner is not entitled for any relief in view of Government order dated 18.11.1997. Paragraph-4 reads as under :-

*"that in reply to the averments made by the petitioner in their writ petition it is stated thereof that the petitioners are not entitled to be appointed as an Assistant Teacher in Basic Schools in view of the Government order dated 18.11.1997, by means of which only B.T.C. trained teacher were made eligible to be appointed of the said post."*

Similar matter came up for disposal in Writ Petition No. 780 (S/S0 of 2005, Km. Usha Rawat and others Vs. State of Uttaranchal and others. It has been observed in the aforesaid judgment that in pursuance of the Government Notification dated 23.11.2001 that after 1996-1997 the institution itself has been de-recognized. The observations are quoted below :-

*'Petitioners have passed out their C.P.Ed. after 1997 from Maharastara. Learned counsel for the petitioners has*

*submitted that petitioners had been admitted in the year 1997-1998 and so they are entitled to get the benefit of Government order dated 23.11.2001.*

*Arguments of the learned counsel for the petitioner are misconceived. In the Government order it is very clearly mentioned that candidate must pass out in the year 1997 meaning thereby the session 1996-97. According to this clause IV of the Government Order dated 23.11.2001 petitioners are not eligible to be admitted in Special B.t.c. course in the State of Uttaranchal. It has also not shown in any Government Order that the institution from which the petitioners have passed is recognized for C.P.Ed. course in Uttaranchal for admission in Special BTC. Meaning thereby C.P.Ed of Maharastra has no equivalence to C.P.ED. of Uttaranchal for making them eligible for Special BTC.*

*Learned counsel for the petitioners has submitted that respondent no.5 Ms. Devki, is the batch mate of petitioners and has passed C.P.Ed. with petitioners from the same Institution and she has been admitted for Special BTC course. Ms. Devki was also denied admission by the State Government in view of Clause IV of the Government Order dated 23.11.2001 but Ms. Devki obtained order of this Court fro provisional admission, accordingly, she has passed the Special BTC and declared successful. Now, she*

*is employed. The said parity cannot be granted to the petitioners as Clause IV of the said Government Order dated 23.11.2001 was not in the notice of this court which clearly debarred those candidates, who have completed their C.P.Ed. from out of State after the year 1997. It is settled law that Article 14 cannot be invoked on the ground of mistake, therefore, the contention of the petitioners that Article 14 is violated because of admission of Ms. Devki has no merit.*

*For the reasons recorded above, writ petition lacks merit, hence dismissed, Interim order, if any, stands discharge Accordingly, present application for modification is also dismissed."*

In **State of Maharastra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya, 2006 A.I.R., SCW 2048,** it has been held as under :-

> *"it is thus clear that the Central Government has considered the subject of Secondary Education and Higher Education at the national level. The Act of 1993 also requires Parliament to consider Teacher Education System 'throughout the country'. NCTE, therefore in our opinion, is expected to deal with applications for establishing new B.Ed. colleges or allowing increate intake capacity, keeping in view 1993 Act and planned and co-ordinated development of teacher-education system in the country.""*

In view of the above, the petitioners shall be entitled for the relief only in the event condition framed by the National Counsel for Teacher's Education is followed.

In view of the Government order derecogniging the institution itself, no relief can be granted to the petitioners.

Writ petition lacks merit and is dismissed. No order as to costs.

10.7.2006 (Rajesh Tandon, J.)